

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 05-73883

SHANNON F. CAGLE,

Honorable Patrick J. Duggan

Defendant.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on April 7, 2006.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On December 9, 2005, a default judgment was entered as to Defendant Shannon F. Cagle. On December 28, 2005, writs of continuing garnishment were entered as to Defendant and four garnishees, including the Co Op Services Credit Union. On January 31, 2006, Defendant filed an objection to the writs of garnishment, which was referred to Magistrate Judge R. Steven Whalen for a Report and Recommendation (R&R). At a hearing before Magistrate Judge Whalen, on March 9, 2006, Plaintiff requested that the default judgment be set aside.

On March 20, 2006, Magistrate Judge Whalen filed his R&R recommending that this Court uphold Plaintiff's objection to the writs of garnishment, vacate the writs of

garnishment, and set aside the default judgment. At the conclusion of the R&R, Magistrate Judge Whalen advises the parties that they may object and seek review of the R&R within ten days of service upon them. The R&R also advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal,” citing *Thomas v. Arn*, 474 U.S. 140 (1985), *Howard v. Secretary of HHS*, 932 F.2d 505, 508 (6th Cir. 1991), and *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).¹ Neither party filed objections to the R&R.

The Court, however, has carefully reviewed the R&R and concurs with Magistrate Judge Whalen’s conclusions.

Accordingly,

IT IS ORDERED that the default judgment entered in this case, and the writs of continuing garnishment are **VACATED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Shannon Cagle
183 S. Grand Pointe
Brooklyn, MI 49230

Pamela S. Ritter, Esq.
Magistrate Judge R. Steven Whalen

¹In *United States v. Walters*, the Sixth Circuit held that a party waives his or her right to appeal by failing to file objections to a magistrate judge’s report and recommendation within ten days, provided the magistrate judge notified the parties that failure to file objections constitutes a waiver of appeal. 638 F.2d 957, 949-50 (6th Cir. 1981). The Supreme Court affirmed the Districts’ power to impose such an administrative rule in *Thomas v. Arn*, 474 U.S. 140, 105 S. Ct. 466 (1985). See also *Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505, 508 (6th Cir. 1991). Magistrate Judge Whalen notified the parties that failure to file objections would constitute a waiver of their right to appeal.